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EXAMINER	
HU, KANG	

  

ART UNIT	PAPER NUMBER
3715	

  

NOTIFICATION DATE	DELIVERY MODE
12/09/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-at@btlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/789,654	<b>Applicant(s)</b> ALLEN, WILLIAM HARRISON	
	<b>Examiner</b> KANG HU	<b>Art Unit</b> 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-10, 15 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-10, 15 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Current office action is in response to amendment filed on 8/24/2009. Claims 1-7, 11-14, 16-20 were previously cancelled, claim 24 added. Claims 8-10, 15, 21-24 are currently pending in the application.

### ***Specification***

1. The amendment to the specification and drawing filed 8/24/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The applicant has submitted new drawing – fig 4A, and amendment to the specification. The amendment to the specification and drawing include new matters which are not supported by the disclosure as originally filed. Figure 4A, although similar to figure 4 originally filed on 2/27/2004, provides additional features including structural graphic image region with three dimensional stop signs, the punctuation marks displayed throughout the drawing (i.e. dash, semicolon, and ellipses), pause point count length symbol, and stop block symbols. These features were not previously presented and not supported by the specification. Although similar structure is shown in fig 4, fig 4 only provides areas where structural graphic image region, study word/symbol region and raised large symbol display etc. exist and does not specifically provide each exemplary drawings of representation of each features as presented in fig 4A. Furthermore, the amendment to the specification, does not have support for at least exemplary punctuation symbols dash 87A, semicolon 87B, and ellipses 87C, corresponding punctuation symbols 88A, 88B and 88C, eyes

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94, and the movable eye marker loop can be detachably held by hook and loop fastener 93 which mates with a hook and loop fastener on the back side (the side obverse to the side having the eyes 94). Although the specification originally discloses of having two eyes at the top of the movable eye marker loop, sliding along an eye marker horizontal slide band attachable by a repositionable (e.g. hook and loop). It does not provide the teaching of how it is mated to the back side.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Drawings***

2. The drawings are objected to because the drawing submitted on 8/24/2009 fails to meet the standards of drawing as specified in § 1.84, specifically the drawing is not acceptable at least because the drawing does not have satisfactory reproducible characteristics. The lines, number and letter must be durable, clean, black, sufficiently dense and dark, and uniformly thick and well defined. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 8-10, 15, 21-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claims 8-10, 15, and 22-24: claim 8 recites "a raised set of punctuation symbols, a set of pause markers, and pause symbols"; claim 9 recites "punctuation symbols"; claim 10 recites "punctuation symbol"; claim 15 recites "punctuation symbols, three-dimensional representations of pause points"; claim 22 recites "raised set of punctuation symbol, three dimensional pause symbol, pause marker"; claim 23 recites "punctuation symbol, pause markers, pause symbol"; claim 24 recites "punctuation symbols, three-dimensional pause symbol, pause marker, pause symbols." The specification originally filed does not provide each and every features of the

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limitation as indicated above, the application as originally filed provides teachings of three-dimensional symbols, raise stop block symbol, and raised punctuation marks. The applicant is required to use the same terminology as originally filed in the specification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soto et al. (US 6,954,199 B2) in view of Davis, The Gift of Dyslexia, hereinafter Davis and further in view of Smith (US 2,524,143).

Re claim 8 and 22, Soto teaches a method and apparatus of teaching dyslexic individuals, comprising:

a. providing an apparatus, comprising,

i) a binder comprised of a generally rigid material and having a first section and a second section, both sections being pivotably associated with each other by a middle hinge portion (Soto, col 11, line 43-51);

ii) means for generating at least one audio sound from a set of a plurality of possible audio sounds in response to an actuating signal (Soto, col 6, lines 43-47); and,

iii) a plurality of pages associated with said binder, each page comprising a first side and a second side, each said page having a plurality of discrete regions (Soto, fig 1) comprising:

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(1) a first region comprising a set of printed instructions (Soto, see Fig. 1, and col 6, lines 42-65: graphical images, spelling and other contents of the book),

(2) a second region comprising at least one three-dimensional structural graphic image, said image containing at least one figure (Soto, col 3, lines 55-58; col 6, lines 65- col 7, line 2: three-dimensional pop-up structure),

Soto teaches the spelling of the word but does not teach of providing the word in three dimensions, Davis teaches of teaching basic numerals and the alphabet by building them in clay – three-dimensional word (Davis, pg 67, The Davis Symbol Mastery procedure consists of having the person create the meaning of a word or symbol as a three-dimensional picture. The student makes clay model that illustrate the meaning of the word or symbol); Soto further does not disclose of a fourth region comprising a guide for pronouncing said word, Davis teaches of using a pronunciation key in a dictionary (Davis, pg209); Soto does not explicitly teach of a fifth region comprising a definition of said word, Soto teaches in Fig 1, A is for Apple, the word apple and the graphical representation of an apple; Davis teaches of looking up the word in a dictionary or glossary, read the first definition and example sentences out aloud (Davis, pg 223); Soto teaches of (6) a sixth region comprising the spelling of said word (Soto, col 6, lines 52-54);

b. displaying a particular word of interest (Soto, col 6, lines 45-52);

c. actuating one of a plurality of buttons such that said speaker reproduces the sound of said word (Soto, col 5, lines 60-63);

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Soto does not explicitly teach of d. directing said individual to look at the three-dimensional, raised letters version of said word; Davis teaches of using three-dimensional raised letters in helping a dyslexic individual gain orientation (Davis, pg 135) and directing said individual to look at the letters (Davis, pg 217);

Davis further teaches e. providing a written guide for the definition of said word (Davis, pg 223);

j. providing a written guide for pronouncing said word (Davis, pg 209);

k. providing an example of a sentence using said word and related to said three-dimensional image (Davis, pg 223);

l. directing said individual to construct at least one sentence incorporating said word and using said definition (Davis, pg 223);

m. directing the individual to construct with said individual's imagination an image of the raised letters of said word and projecting it above and in front of said individual's head (Davis, pg 224: make a mental picture of what has been created);

n. directing said individual to point to each letter in said individual's imagination image as said individual spells said word backward, and then forward (Davis teaches of mental imagination in pg 128; Davis further teaches of spelling said word forward and backward in Basic Symbol Mastery, pg 197-206);

o. providing a raised letter version of the upper and lower case alphabet (uppercase letters, Davis, pg 199; lower case alphabet, pg 204);

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p. providing a raised set of punctuation symbols comprising at least one symbol representing a standard punctuation mark for a given language (Davis, pg 207, clay three-dimensional models of comma, period and hyphen);

q. providing a movable eye marker (Davis, pg 217, use two piece of paper to cover everything below the line and the right section of the line, also uses of finger or pencil);

Soto and Davis does not teach of r. providing a plurality of three-dimensional pause symbols associated with a punctuation symbol, Smith teaches of providing symbols to represent the beats for pausing (Smith, col 3, lines 5-15). It would have been obvious to one of ordinary skill in the art to combine the teachings of Smith to Soto and Davis, to provide a beat for pausing for different punctuations. Davis further teaches of a length of time to pause for each of the punctuation marks (Davis, pages 207-209, providing a three dimensional clay mark on a piece of paper each associated with a punctuation mark, refer to a grammar book of common usages of each mark, indicating to the student to stop for periods, pause for commas, and etc.), wherein each pause marker represents a length of time to pause (Smith, bell), and each set of pause markers are correlated to the normal length of pause associated with the particular punctuation symbol with which said set of pause markers is associated to touch and stop eye movement left to right, illustrating the duration of pause at each of said punctuation marks (Smith, col 3, lines 45-60, two embodiments of symbols corresponding to the punctuation period or other punctuations; Davis teaches that each punctuation mark indicates a length of time to pause, going over the common usages of the punctuation and pause length associated with the punctuation

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mark, and the three dimensional punctuation is associated to touch hand stop eye movement left to right).

It would have been prima facie obvious at the time of the invention to combine the teachings of Soto, and Davis, to provide three-dimensional letters, symbols and punctuations in order for the dyslexic individual to learn basic symbol mastery by using three dimensional symbols to overcome disorientation and to easily recognize the three-dimensional letters, symbols and punctuations. It would also have been obvious to combine the teaching of Davis to provide pronunciation keys, word definition, example sentences, raised letter of lower and upper case alphabet, punctuation symbols, illustrations of duration of pauses at each punctuation mark, moveable eye markers because it is known methods for teaching a dyslexic individual to build visual tracking, accurate spelling, reading sequencing, and word recognition skills. It would also have been obvious to combine Davis for directing the individual to construct a sentence using said word, imagining and construct an image of the raised letters and punctuation in individual's imagination, direct the student to spell the word forward and backward in order to teach the dyslexic individual on symbol mastery, coordination, reading techniques as these are known methods (Davis method) for teaching a dyslexic individual how to master reading. It would also have been obvious to combine Davis to direct the individual to identify the punctuation and its use, pause length associated with the punctuation as it is known methods for teaching dyslexic individual on the proper use of identifying and accurately use the punctuation where it appears in the reading passage.

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6. Claims 9, 10, 15, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over previously rejected claims under non-final action, dated 2/23/2009 and are incorporated by reference herein.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over view of Davis, The Gift of Dyslexia in view of Smith (US 2,524,143).

Re claim 24, Davis teaches of creating at least one set of punctuation symbols which is raised from said sheet of material, said set of punctuation symbols comprising at least one symbol representing a standard punctuation mark for a given language (Davis, page 207, making three dimensional clay models on a surface of comma, period and hyphen);

Davis does not teach of providing at least one three-dimensional pause symbol, Smith teaches of providing a pause symbol in relation to the punctuation (Smith, col 3, lines 5-15);

Davis further teaches of at least one pause point count length region comprising at least one pause marker defining a set, where each pause marker represents a length of time to pause, and each set of pause markers are correlated to the normal length of pause associated with the particular punctuation symbol with which said set of pause markers is associated (Davis, page 208, refer to a grammar book or definition, go over the common usage of each marks, and emphasize what the student should do when he or she sees the mark, i.e. pause for comma and stop for periods);

and a movable marker slidingly associated with said sheet, said marker having a visual indicia associated therewith for drawing a user's attention to a set of said pause markers and other visual indicia on said sheet, wherein said punctuation symbols, pause symbols, and pause markers are

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associated with said sheet of material (Davis, page 217, using two pieces of paper, or pencil or finger to allow the student to build visual tracking skills by allowing the student to focus on the material by using a pencil or even finger to direct the eye movement of the student), and, wherein one set of punctuation symbols, one set of pause markers and at least one pause symbol comprises a unit such that a user can tactilely feel and visually see a raised punctuation symbol and associated set of pause markers indicating an appropriate number of pause length, and can move said eye marker toward a first unit and can see and said punctuation symbol to experience a multi-sensory awareness of what said punctuation symbol represents and the appropriate length of time to pause during reading, and when the user moves said eye marker toward a second unit and the user experience a multi-sensory awareness of the punctuation symbol contained in such second unit (Davis, pages 206 – 208 and 220, construct clay three dimensional punctuation marks, teach the student the definition, the usage of each of the punctuation marks, finding punctuation marks in various texts and have the student practice the usage of each mark by pausing at a comma and stopping at a period).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Davis with Smith, to provide a symbol representing the beat of a pause of the punctuation to allow the student to easily identify the usage of the punctuation marks, it would have been obvious to modify the teachings of smith to create three-dimensional symbols for a dyslexic student to visually track and physically touch the three dimensional punctuation representations for the student to pause or stop at appropriate instances.

***Response to Arguments***

8. Applicant's arguments filed 8/24/2009 have been fully considered but they are not persuasive.

The applicant has provided correlation of the claim language and the specification, however the terminology used in the claims are not those originally filed by the applicant and further not supported by the specification originally filed. According to the applicant, the at least one set of punctuation symbols is supported by paragraph 38 and 74, paragraph 38 of the specification provides a raised word display region contains the study word in large, raised letters and paragraph 74 provides support for the letters of the raised large punctuation mark. There is no explicit recitation of "punctuation symbols" in the specification. The applicant also provided correlation of three-dimensional pause symbol and pause marker, none of the specification provides explicit recitation of such "three-dimensional pause symbol" and "pause marker", paragraphs 33 provides teaching of a three-dimensional symbol that represents the rhythm of pause at the punctuation pause point, paragraph 37, 74 and 75 provide three-dimensional pop-up device, the specification does not provide support for at least claimed features of three-dimensional pause symbol and pause marker.

With regard to the 103 argument of Soto in view of Davis, the applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., multimodal and multisensory approach, stop blocks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

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limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, the applicant argues that the pause markers in claim 8r define a relative length the student is to pause when a particular punctuation symbol is encountered, such as two lengths of pause for a dash, semicolon or ellipses or four pause lengths for a colon or exclamation point. The features as claimed are not supported by the specification. Nevertheless the examiner previously provided prior art reference Smith, Smith teaches of having two symbols to allow the reader to stop and pause every time punctuation is encountered.

The applicant further asserts that the present invention uses a book form, wherein Davis provides teaching of presenting three dimensional punctuations and alphabets using clay and therefore not reusable. The argument is not persuasive as Davis is not been relied upon for teaching of a book form, Soto teaches of constructing a book with various features to be presented to the student. Davis teaches of having students construct each of the alphabets and punctuations out of clay to allow the student to associate each of the alphabets and punctuations mentally. Even though Davis does not teach of constructing each of the elements in a book form, however one of ordinary skill in the art would be able to construct such a book provided by Soto to teach the methods provided by Davis to teach dyslexic individuals.

The applicant asserts that neither Davis, nor Soto teaches of using a movable eye marker, the examiner respectfully disagree. Davis indeed provides teaching of using two pieces of paper in

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order to allow the dyslexic student to focus only on the portion pertinent to the student at the time. However Davis also teaches of allowing the student to build visual tracking skills by allowing the student to focus on the material by using a pencil or even finger to direct the eye movement of the student. Therefore Davis indeed provides such movable eye marker allowing the students to follow along. With respect to the integration and reusability of the eye marker apparatus, the examiner has indicated above that one of ordinary skill in the art would be able to construct various apparatus following Davis' method of teaching dyslexic individuals and not repeated herein.

In regards to applicant's argument in regards to the combination of elements in the apparatus and the steps in the method using the apparatus which are novel and nonobvious in view of the applied prior art of Soto in view of Davis and further in view of Brown and Smith. The Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In regards to applicant's argument in regards to the eye marker being fixed, the claim does not recite nor require the eye marker to be portable.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/  
Primary Examiner, Art Unit 3715

/K. H./  
Examiner, Art Unit 3715